



# OWNERS' FIXED P&I DEFENCE

TERMS & CONDITIONS

AS OF 20 FEBRUARY 2017

 **SKULD**

This cover is expressly subject to parts 1 and 3 of the Skuld Owners' Fixed P&I Terms and Conditions, as well as Appendices 1 and 2 of those conditions, all of which is incorporated herein by reference.

### 1. COVER

Skuld shall cover the Assured's reasonable costs for necessary legal assistance in relation to disputes which are directly connected with the operation of the entered vessel and which are in respect of any of the following:

- 1.1 the carriage of cargo,
- 1.2 the carriage of passengers,
- 1.3 contracts with port agents,
- 1.4 crew employment contracts,
- 1.5 contracts with brokers,
- 1.6 charterparties, and, provided agreed at the time the relevant contract is entered into, contracts of affreightment,
- 1.7 the use of port facilities,
- 1.8 loss, damage or delay to the vessel,
- 1.9 general average,
- 1.10 salvage and towage,
- 1.11 insurance contracts in respect of the vessel,
- 1.12 damage to property,
- 1.13 personal injuries or loss of life,
- 1.14 supplies to the vessel,
- 1.15 contracts for the repair of the vessel,
- 1.16 conversion, alteration, building, purchase, mortgaging or sale of the vessel (subject to 2.8 and 4.2 of these Defence Terms and Conditions).

### 2. EXCEPTIONS

However, Skuld shall be under no liability to reimburse the Assured for costs:

- 2.1 which are incurred before the Assured notifies the Skuld of the dispute or in relation to a claim which is or can be covered under Owners' Fixed P&I Terms and Conditions,
- 2.2 where the Assured fails to carry out any of his obligations under these Terms and Conditions, or those to which these terms are subject, and incorporated herein

- 2.3 where the dispute is with Skuld or Skuld's servants, agents or representatives, or is between joint assureds, co-assureds or parties with joint interests in the vessel,
- 2.4 where the dispute is in respect of a class action or other legal proceedings in which one or more persons sue or are sued as representatives of a group of persons with a common interest,
- 2.5 where the dispute arises out of damage to the vessel, to the extent that the cost of repairs exceeds the deductible or one per cent of the insured value of the vessel under the hull policies,
- 2.6 where the dispute arises under a management agreement,
- 2.7 where the vessel is not entered with Skuld at the time the cause of action arises and, in the case of disputes arising out of the alteration, building, purchase, mortgage or sale of the vessel, at the time the relevant contract is entered into,
- 2.8 where the dispute arises under Rule 1.16 (the conversion, alteration, building, purchase, mortgage or sale of the vessel) unless cover has been separately agreed in writing,
- 2.9 where the Assured appoints a lawyer without the approval of Skuld, or
- 2.10 which, in the opinion of Skuld, should not be covered on any of the following grounds:
- a) there is no reasonable relationship between the amount in dispute and the costs which are likely to be incurred,
  - b) there is no reasonable relationship between the prospects of successfully obtaining an award or judgment and the costs which are likely to be incurred,
  - c) there is no reasonable relationship between the prospects of successfully obtaining payment (due to the financial position of the other party or otherwise) and the costs which are likely to be incurred,
  - d) there is no reasonable relationship between the prospects of successfully defending a claim and the costs which are likely to be incurred,
  - e) the Assured has failed to take reasonable care in the chartering, control or management of the vessel, or the position adopted by the Assured is unreasonable or the Assured's conduct has been imprudent, improper or tainted with illegality,
  - f) the Assured fails to provide information or documentation which is necessary for the dispute to be properly evaluated or handled,
  - g) the Assured refuses to handle or settle the case in accordance with Skuld's recommendations,
  - h) the Assured makes concessions or enters into a settlement without Skuld's approval,
  - i) the Assured takes steps to initiate legal action or arbitration, or makes an application to any court or arbitration tribunal, or takes any other material step in a dispute, without seeking Skuld's prior approval, or
  - j) any other reason which Skuld decides, in its absolute discretion, is sufficient reason for cover not to apply



## 3. MISCELLANEOUS

- 3.1 Skuld may at any stage of a dispute withdraw or limit the extent of cover for any of the reasons set out in section 2 of these Defence Terms and Conditions, or in any of the circumstances referred to in 27.1.2. of Part 3 of Owners Fixed P&I Terms and Conditions incorporated herein by reference.
- 3.2 In the event that cover is withdrawn, the Assured is liable to reimburse Skuld for any costs which Skuld has previously incurred.
- 3.3 Where the costs of a dispute are only partly covered, Skuld shall decide, in its absolute discretion, on the applicable apportionment of costs.
- 3.4 In so far as the Assured's costs are covered, Skuld shall be entitled to any sum which the Assured recovers in respect of costs pursuant to any award, judgment or settlement agreement, and in the event that a settlement agreement does not provide, or does not provide adequately for recoverable costs, Skuld shall be entitled to such sum as it considers should have been attributable to costs pursuant to such an agreement.
- 3.5 Where a dispute involves two or more assureds of Skuld, Skuld shall be entitled at any stage of the dispute to recommend to these assureds to submit to mediation with a recognised international shipping mediator to be appointed by agreement among those assureds. Failing agreement among those assureds on the appointment of a mediator, Skuld shall be entitled to recommend appointment of such a mediator on their behalf.
- 3.6 Skuld shall decide in its absolute discretion whether a case involves one or more disputes to which a deductible applies.
- 3.7 Where a separate agreement has been reached in respect of disputes arising out of the repair, alteration, conversion, building, purchase or sale of the entered vessel (pursuant to 2.8 of these Defence Terms and Conditions), any limit agreed shall apply in the aggregate to all disputes arising out of one contract or series of contracts.

## 4. LIMITATION

- 4.1 Cover for Fixed Owners Entries under these Defence Terms and Conditions is limited to USD 2 million per dispute.
- 4.2 For disputes arising under 1.16 of these Defence Terms and Conditions (alteration, conversion, building, purchase, mortgage or sale of the vessel), the limit shall be USD 300,000 per dispute unless a different limit is agreed.
- 4.3 Any policy limits shall apply to the total amount of any claim, inclusive of deductibles.

## 5. DEDUCTIBLE

Unless otherwise agreed, cover under these Defence Terms and Conditions shall be subject to the following deductible per dispute: 25 % of the total costs with a minimum of USD 10,000 per dispute.